

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

ANDRE LEFFEBRE §  
v. § CIVIL ACTION NO. 6:14cv768  
RANDI RUSSELL, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Relator Andre Leffebre, proceeding *pro se*, filed this application seeking the issuance of a writ of mandamus. The underlying action is civil rather than criminal in nature. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings, the Magistrate Judge issued a Report recommending that Leffebre's application be dismissed pursuant to the three-strike provision of 28 U.S.C. §1915(g). Leffebre filed objections to the Report arguing in essence that mandamus petitions do not fall under §1915(g). This contention is incorrect. In re Crittenden, 143 F.3d 919, 920 (5th Cir. 1998).

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which the Relator objected. *See* 28 U.S.C. §636(b)(1) (district judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") Upon such *de novo* review, the Court has determined that the Report of the Magistrate Judge is correct and the Relator's objections are without merit. It is accordingly

**ORDERED** that the Relator's objections are overruled and the Report of the Magistrate Judge (docket no. 4) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the Relator's application for leave to proceed *in forma pauperis* (docket no. 2) is hereby **DENIED**. It is further

**ORDERED** that the above-styled application for the writ of mandamus be and hereby is **DISMISSED WITH PREJUDICE** as to the refiling of another *in forma pauperis* application raising the same claims as herein presented, but without prejudice to the refiling of this action without seeking *in forma pauperis* status and upon payment of the statutory \$400.00 filing fee. It is further

**ORDERED** that should the Relator pay the full filing fee within 15 days after the date of entry of final judgment in this case, he shall be allowed to proceed as though the full fee had been paid from the outset. Finally, it is

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED**.

**It is SO ORDERED.**

**SIGNED** this 4th day of March, 2015.



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MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE